IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRTIETH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO : 9704 of 2004

Between:

1. M/s Hira Auto House, a partnership firm, rep. by its partners

Sri Gopichand Bengani, S/o Shrichand Bengani,

R/o H.No. 4-2-266, Mahankali Street, Secunderabad.
2 Sri Navaratnmal Sirohiya, Sohanlal Sirohiya, Hindu,
Carrying business at Premises No. 2-2-155, Ground Floor,

Mahatma Gandhi Road, Secunderabad,
R/o H.No. 8--3-189, Chapalbai, Secunderbad.

..... PETITIONERS

AND

1 Government of Andhra Pradesh, Rep. by its Secretary,
General Administration, Secretariat Building, Hyderabad.
2 P. Raja Narasimha Rao, S/o P. Mallaiah, Hindu,
R/o H.No. A/23, Bansilalpet, Secunderabad.
3 D. Ramesh, S/o Late D. Venkaiah, Hindu,
R/o 2-3-157, Ramgopalpet, Secunderabad.
4 Hon'ble 1st Junior Civil Judge, City Civil Courts,

Secunderabad.

....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of Mandamus, or any other appropriate writ, order or direction declaring the G.O.Ms.
No.636 as arbitrary, illegal, unjust, contrary of law, violative of provisions of A.P. Buildings (Lease, Rent and Evection) Control Act and is discriminatory and violative of Article 14 of the Constitution of India and issue a prohibitive right restraining the

4th respondent from executing decree in O.S.No. 1021 of 1996 on its file on the ground that the Civil Court have no jurisdiction is to approach the Courts under the A.P. Buildings (Lease, rent and Eviction) Control Act.

Counsel for the Petitioners : SMT.K.ANNAPURNA REDDY

Counsel for Respondent No.1 : GP FOR GENERAL ADMINISTRATION

Counsel for Respondent Nos.2 & 3 : Mr. P.Venugopal

Counsel for Respondent No.4 : Mr. C.V.Nagarjuna Reddy, SC

The Court made the following :

ORDER :

The first petitioner is a partnership firm and the second petitioner is its partner. The first petitioner is the tenant of premise bearing No.2-2-155, Mahatma Gandhi Road, Secunderabad, belonging to respondents 2 and 3. The agreed monthly rent is Rs.1,190/-. The landlords filed a suit being O.S.No.1021 of 1996 on the file of the Court of the I Junior Civil Judge, City Civil Court, Secunderabad, for eviction and mesne profits. The same was decreed on 31-3-2000. Aggrieved by the same, the petitioners herein filed an appeal being A.S.No.73 of 2000 on the file of the I Additional Chief Judge, City Civil Court, Secunderabad. The appellate court dismissed the appeal with costs. The remedy of the petitioners was to file a Second Appeal under Section 100 of the Code of Civil Procedure, 1908. But curiously, the petitioners filed this writ petition challenging the G.O.Ms.No.636, General Administration (Accommodation-A) Department, dated 29-12-1983 on the ground that the said G.O., which *inter alia* exempt the buildings fetching a monthly rent of Rs.1,000/- and more from the purview of provisions of the Andhra Pradesh Buildings (Lease, Rent and Eviction) Control Act, 1960 (hereafter called 'the Rent Act' for brevity) is discriminatory and violative of Article 14 of the Constitution of India. The petitioners prayed for a declaration that the said G.O. is contrary to the provisions of the Rent Act and discriminatory. The petitioners also filed a miscellaneous application being W.P.M.P.No.12371 of 2004 praying this Court to stay all further proceedings including the execution of decree in O.S.No.1021 of 1996 on the file of the Court of the I Junior Civil Judge, City Civil Court, Secunderabad.

This Court while admitting the writ petition on 17-6-2004 passed interim orders in W.P.M.P.No.12371 of 2004 staying all further proceedings including execution of the decree in O.S.No.1021 of 1996. The landlords, respondents 2 and 3 in the writ petition, moved this Court for vacating the interim orders by filing W.V.M.P.No.1868 of 2004. As the question raised herein is squarely covered by the judgment of this Court, the matter was heard finally and is being disposed of at the interlocutory stage with the consent of learned counsel for the petitioners, learned counsel for the respondents as well as the learned Assistant Government Pleader for General Administration.

This Court in **Shankar Rao v. Government of A.P.** upheld the Government Order

exempting all buildings, monthly rent of which exceeds Rs.1,000/-, from the operation of the provisions of the Rent Act. The only submission made by the learned counsel for the petitioners is that the G.O. was issued in December, 1983 when the value of the rupee *by far* comparatively was more. The criteria of monthly rent of Rs.1,000/- cannot be reasonable in the changed circumstances and in that view, the same is discriminatory. This submission is devoid of any merit. The Supreme Court in **Motor General Traders v. State of A.P.** declared Section 32 (b) of the Rent Act as unconstitutional, but permitted the Government to exempt a class of buildings from the operation of the provisions of the Rent Act having regard to the hardship faced by the landlords. Therefore, the Government issued notification in exercise of its powers under Section 26 of the Rent Act, exempting all buildings for a period of ten years from the date on which construction is completed and the buildings, the monthly rent of which exceeds Rs.1,000/-. This Court found the classification valid as satisfying the rationality test as well as nexus test. The petitioner has not placed any material before this Court to appreciate the contention that the criteria on the basis of which the monthly rent needs revision. In the absence of any such material, this Court is not inclined to adjudicate the issue. In that view of the matter, when the power is conferred on the Government under Section 26 of the Rent Act, it is for the Government to exercise such power and this Court cannot issue any mandamus.

The writ petition is misconceived and accordingly dismissed. The interim order stands vacated. No costs.

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(V.V.S. RAO, J.)

30-09-2004.

Msr.

To

1 The Secretary to Government, General Administration

Department, Government of A.P., Secretariat, Hyderabad.

2 Hon'ble 1st Junior Civil Judge, City Civil Courts,

Secunderabad.

3. Two CCs to G.P. for General Administration, High Court

Buildings, Hyderabad.

4. Two CD copies

HON'BLE SRI JUSTICE V.V.S. RAO

WRIT PETITION No.9704 of 2004

30-09-2004.

(Msr)